shall not relieve Licensee of any responsibility, obligation, or liability imposed by law or assumed under this Agreement. Special inspections shall be handled in accordance with Exhibit E.

b. From time to time, Licensor or its contractor may inspect poles to which Licensee is attached, and may place tags or other markings on such poles indicating the condition of the pole and/or whether the pole is safe to climb. LICENSEE SHALL INFORM ITS EMPLOYEES AND CONTRACTORS OF THE MEANING OF SUCH TAGS OR OTHER MARKINGS. Licensor's election to inspect any pole is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensor's part with respect to Licensee or its facilities that is not expressly set forth in this Agreement. The placement of an inspection tag or other marking, or lack thereof, on a pole shall not relieve Licensee of its responsibility to determine for itself whether any particular pole is safe for climbing.

12. Reservation of Poles by Licensor

a. Licensor reserves the right to identify, pursuant to a bona fide business plan, specific distribution poles for which Licensor projects a need for space in the provision of its core utility service. At the time of Licensee's pole attachment request, Licensor shall notify Licensee if any of the requested poles are reserved for Licensor's exclusive use. Licensee reserves its right to challenge Licensor's reservation of space consistent with applicable law.

b. Licensor shall allow Licensee to install Attachment(s) on such distribution poles until such time as Licensor notifies Licensee of its need for those poles. Licensee acknowledges that Licensor's need to use such distribution poles may arise on an emergency basis, for which Licensor's need is immediate.

c. Licensor will provide sixty (60) days prior electronic or other written notification of its need for the reserved poles unless such notice is impractical under the circumstances, in which case Licensor will notify Licensee as soon as reasonably practicable, and Licensee shall remove its Attachments from the reserved distribution poles within the time required by Licensor or within such other time as the parties agree. Alternatively, Licensor may remove the Attachments and Licensee shall reimburse Licensor's costs of doing so.

13. Compliance with Licensor's Policies and Procedures

Licensee shall comply with all Policies and Procedures applicable to Licensee's Attachments which are currently in force or subsequently established by Licensor at any time during the term of this Agreement, including (without limitation) Policies and Procedures to implement and allocate modification billing and to provide for an orderly process of attachment in the event that Licensee and one or more other parties desire to attach to the same distribution poles. Notwithstanding the above, any changes to the Policies and Procedures shall not be applied retroactively with regard to Licensee's existing attachments and shall not apply to the cost schedule without Licensee's consent. In the event of a conflict between the Policies and Procedures and the terms of this Agreement, the terms of this Agreement shall control. Licensor shall provide 60 days' notice to Licensee of any subsequent change to Licensor's Policies and Procedures.

14. Pre-Construction, Replacement and Modification Notification by Licensor

Licensor will endeavor to provide to Licensee such prior notification by electronic mail or other written notice of planned new construction of distribution poles to which Licensee is not attached as may be reasonable under the circumstances. However, the continuing practice of providing written notifications shall not constitute an obligation on the part of Licensor to provide such notifications. Licensor will provide sixty (60) days prior electronic mail or other written notification to Licensee (unless such notice is impractical under the circumstances, in which case Licensor will notify Licensee as soon as reasonably practicable) of planned replacement or modification (other than routine maintenance) of any distribution poles to which Licensee is attached, provided that Licensee has marked or otherwise placed identification on such Attachments which will allow Licensor to ascertain the identity of the owner of the Attachments. Notwithstanding the provisions of this Section 14, Licensor reserves the right to decide not to construct, reconstruct or modify any distribution poles. Licensee reserves the right to challenge any such decision consistent with applicable law. Should such decision be made after Licensee has paid amounts for additional capacity, such amounts shall be reimbursed to Licensee.

15. Transfers of Licensee's Attachments

a. Whenever Licensor has need to replace, for any reason, any of its distribution poles to which an Attachment of Licensee is attached, Licensor shall have the right, but shall not in any way be obligated, to transfer the Attachments of Licensee from the replaced distribution pole to the replacement distribution pole. It is intended that transfers of Licensee's Attachments by Licensor will be limited to cables and service drops which are attached to distribution poles by tangent or dead-end type construction and for which the transfer can be accomplished without the requirement to cut or splice the cables or service drops. Down guys may also be transferred by Licensor, at its discretion.

b. Licensor shall not be required to provide advance notification to Licensee for the above-described transfer of Licensee's Attachment(s) by Licensor and such transfers may be performed by Licensor at its sole discretion.

c. Whenever Licensor needs to have Licensee remove its attachments from a distribution pole in a situation where a pole or entire pole line is being relocated or removed such that a transfer is not feasible, Licensor will so notify Licensee. Licensor will provide sixty (60) days' prior electronic or other written notification of its need for the poles under these circumstances unless such notice is impractical under the circumstances, in which case Licensor will notify Licensee as soon as reasonably practicable, and Licensee shall remove its Attachments from the distribution poles within the time required by Licensor or within such other time as the parties agree. When Licensor notifies Licensee that recovery of the distribution pole is for an emergency use, Licensee shall immediately remove its Attachments affected by Licensor's emergency. Alternatively, Licensor may remove the Attachments and Licensee shall reimburse Licensor's costs of doing so.

d. Licensee shall pay, on receipt of invoice, to Licensor the amount stated in Exhibit B for each pole on which such transfer or transfers of Attachments are made by Licensor during the initial year this Agreement is in effect. After the initial year of this Agreement, this fee may be

reviewed annually and may be adjusted upward or downward to more accurately reflect Licensor's actual cost of making such transfers, but any increases shall not exceed increases consistent with the Handy-Whitman Index, South Atlantic Region (FERC Account 364: Poles, Towers & Fixtures), unless otherwise agreed upon by the parties. Without limiting the foregoing provisions of this Section 15, Licensee shall, at any time, at its own expense, within thirty (30) days of the date of electronic or other written notice from Licensor, remove, relocate, replace or renew its Attachments placed on said poles, or transfer them to substituted distribution poles or perform any work in connection with said Attachments that may be required by Licensor. Should Licensee fail to do so and such failure causes Licensor to incur expense or liability, Licensee shall reimburse any such expense and shall indemnify and hold harmless the Indemnified Parties against any damages or liability arising out of such failure. In the event Licensee fails to so remove, relocate, replace, renew, or transfer its Attachments within thirty (30) days of the date of such notice, Licensor may at its option itself or by contract with others remove, relocate, replace, renew, or transfer such Attachments, although Licensor is not required to do so, and Licensee shall be liable for the per-pole transfer cost for such work.

e. In the event of a storm or other emergency in which Licensor is performing work on its facilities for such reasons as restoration of electric service to its customers or safety, Licensor shall have the right, but not the obligation, in connection with the repair of its own facilities, to repair any Attachments of Licensee, and Licensee shall reimburse Licensor for the cost incurred by Licensor in making such repairs to Licensee's Attachments.

16. NJUNS

The parties recognize that improved coordination of activities such as pole attachments and pole attachment transfers by pole owners and pole attachers is to the benefit of all parties, and that Licensee's and Licensor's participation in the National Joint Utilities Notification System ("NJUNS"), a Web-based system developed for the purpose of improving the coordination of such joint activities, would improve their respective operations under this Agreement. Licensee will join NJUNS within 30 days of the execution of this Agreement and, during the term of this Agreement, will actively participate by entering field information into the NJUNS system within the times required by the system. Should Licensee fail to actively participate in NJUNS and should such failure cause Licensor to incur expense or liability to others, Licensee shall reimburse Licensor its expense and indemnify and hold harmless the Indemnified Parties from any damages or liability arising out of such failure.

17. Non-Reimbursed Reconstruction

In the event any third party entity necessitates the reconstruction of an existing pole or pole line where there is no reimbursement of cost from such third party to Licensor, Licensor shall pay the cost of replacing a like number of poles of like kind. In the event additional poles are required to complete the new pole line, Licensor will treat each such additional pole as new construction, and any requirements for pole height beyond what is required to meet Licensor's needs shall be billed to Licensee.

18. Interruption of Licensee's Service

Licensor reserves the right to maintain its distribution poles and to operate its facilities in such manner as will best enable it to fulfill its own service requirements. Licensor shall not be liable to Licensee for any interruptions to Licensee's service or for interference, however caused, with Licensee's operation of its cables, wires and equipment, or for damage to Licensee's facilities, arising out of the use of Licensor's distribution poles, except that Licensor shall be liable for damage caused solely by its wanton or willful wrongful act. Licensor also shall not be liable for any such interruption, interference or damage caused by its contractors or by any joint user or other attacher.

19. Licensee's Right-of-Way Obligations

Licensee shall, before installing any Attachment to Licensor's distribution poles or placing any anchors in connection therewith, secure any required permission or consent from federal, state, county, or municipal authorities, or from owners of property upon which the distribution poles may be located, to install and maintain Licensee's Attachments thereon. Licensee shall not infer any such permission or consent from Licensor from this Agreement.

20. Annual Attachment Fees

a. Licensee shall pay annual attachment fees to Licensor for each Attachment to distribution poles under this Agreement. Licensor shall send annual statements to Licensee notifying Licensee of the amounts it owes for Attachments for such Contract Year, and Licensee shall pay the corresponding amount. The amount of the annual attachment fee to be invoiced by Licensor shall be calculated in accordance with the formulas set forth in Exhibit A, attached hereto and made a part hereof.

b. The formulas set forth in Exhibit A are based on the FCC formulas for cable television and telecommunications attachments. There may be circumstances under which Licensor is entitled to a fee other than or in addition to the FCC rate. Licensor reserves its rights to charge and collect a per-Attachment fee that is higher than the FCC rate should Licensor determine that these circumstances are present on or after Licensor gives notice of its intent to charge such higher fee under paragraph (c) below. No action or inaction of Licensor shall constitute a waiver of Licensor's right to assert that it is lawfully entitled to collect such a higher fee and Licensor expressly reserves such right. No action or inaction on the part of Licensee shall constitute a waiver of the Licensee's right to dispute the existence of any alleged circumstances or the right to challenge the amount of any fee other than the FCC rate and Licensee expressly reserves such rights.

c. Licensor may revise the per-Attachment fees set forth in Exhibit A at any time without the necessity of an amendment to this Agreement; provided, however, that Licensor shall give Licensee at least sixty (60) days' written notice of any increase in the per-Attachment fee, whether such increase is consistent or inconsistent with the rate calculation in Exhibit A or pursuant to the circumstances described in paragraph (b) above. Neither party waives any of its legal rights, remedies, arguments or positions arising under the Act or otherwise with respect to any rate change or increase.

21. Periodic Field Counts

a. The number of Attachments to Licensor's distribution poles for which Licensee will pay attachment fees to Licensor will be determined by actual field count or alternative methods as set forth in this section. Any Service Drop that is within twelve inches (12") of Licensee's other Attachments on a pole (consistent with applicable Codes and Laws) shall be counted as one Attachment for billing purposes. Licensor reserves the right to perform the field count with its employees or to contract the performance of the field count to an outside party. Licensee will be provided reasonable notice (not less than thirty (30) days, unless otherwise agreed upon) and given the opportunity to accompany Licensor or its contractor and to participate in the field count. Both the Licensee and the Licensor have a responsibility and an opportunity to participate in the field counts so that accuracy may be determined at the time of the field count. If the Licensee elects not to have its personnel participate in the actual field count, it shall so notify Licensor in writing, and it shall, prior to the scheduled beginning date of the field count, provide a written statement of its intent to accept the field count results as determined by the Licensor. Whether or not Licensee gives such written notice to Licensor, Licensee shall, on receipt of invoice, reimburse Licensor its cost, including without limitation applicable taxes and overhead to perform the field count, and Licensee shall in any event abide by the field count results as determined by Licensor.

b. Licensee shall indicate agreement with the field count results by having its representative at the field count sign the counter's summary sheet of all pole count documentation immediately following completion of the field count. At the time an invoice is submitted to Licensee for the field count, the summary sheets, and summary maps, if used, shall be provided in support of the count to enable Licensee to verify the accuracy of the count.

c. Should Licensor in the future adopt a process pursuant to which one or more third parties' attachments are counted in the same field count as Licensee's Attachments, the cost of the count will be allocated pro rata among Licensee and the third parties whose attachments are counted.

d. Licensor may at any time competitively bid a field count or utilize for the field count any contractor that it has used for such work in a prior field count. Should Licensor decide in its sole discretion to use a previously-hired contractor, and if that contractor's rates per pole quoted for the current field count have increased from the contractor's previous rates by a percentage greater than the percentage of cost increase identified in the Handy Whitman Index, South Atlantic Region (FERC Account 364: Poles, Towers & Fixtures), then Licensor shall have the option of either utilizing that contractor and absorbing that amount of the contractor's charges that exceed the Handy Whitman Index percentage increase or selecting a contractor by competitive bid. Should Licensor elect to use the competitive bid process, it shall provide Licensee the opportunity to submit the names of potential contractors for consideration in the bidding process.

e. A field count of Licensee's Attachments will be performed at various times (normally on a four-year interval). If Licensor elects to conduct periodic field counts more frequently than on a four-year cycle, it shall bear the cost of such additional field counts. However, if any such count is for the purpose of settling a dispute or in connection with an assignment issue, Licensee shall pay for the cost of such count. The year of the first field count to be performed under this provision will be determined by Licensor but will occur during the first four (4) years

after the effective date of this Agreement. For Contract Years for which no actual field count is performed, the number of Attachments will be determined by Licensor based on previous counts or existing records, including applications and maps furnished by Licensee. Upon the performance of an actual field count, adjustments will be made, if appropriate, to the attachment fee amounts for those Contract Years for which an actual field count was not performed. The undocumented attachments reflected in the actual field count shall be deemed unauthorized attachments, and such adjustments will be made in accordance with Section 23.

f. As an alternative to performance of the actual field count described herein, the parties may use existing maps, geographic information systems ("GIS"), and/or Attachment records; provided, however, that such maps, GIS, or records exist and provided that each party agrees that results with reasonable accuracy can be achieved. The results of attachment counts performed in this alternative manner shall be treated, for Annual Fee purposes, as if they were determined by actual count.

22. Fee Payments

a. Attachment fees are payable in advance at the beginning of each Contract Year, upon receipt of an invoice. The annual fees to be billed on each such invoice shall be determined by multiplying the appropriate annual fee per-Attachment for that Contract Year as described in Section 20 above by the number of Attachments as determined by actual field count or by procedures described in Section 21 above.

b. For Attachments made during a Contract Year, Licensee shall pay the full per Attachment annual fee for that year, which amount shall be included on Licensee's annual attachment fee invoice for the following Contract Year.

c. Payment of all invoice amounts (including annual attachment fees, transfer fees and any other amounts due under the Agreement) shall be due upon receipt of the invoice and those not paid within forty-five (45) days after receipt shall be subject to interest from its due date to date of payment at a rate equal to the highest prime rate quoted in the Money Rates Section of the Wall Street Journal on the 45th day from the date of the invoice, plus five percentage points (5%), or the maximum rate of interest allowed by law, whichever is less (the "Interest Rate"), for each month or portion thereof that the payment is late. If for any reason attachments for which fees are paid in advance hereunder cease to exist or cease to be the property of Licensee, no portion of said fee shall be refundable. No portion of any fee shall be prorated. Failure to pay fees, expenses or any other charges under this Agreement within forty-five (45) days after presentation of the invoice or on the specified payment date, whichever is later, shall constitute a default of this Agreement.

23. Unauthorized Attachments

a. Except for those attachments for which this Agreement expressly states Licensor's grant of access is not required, the attachment of any cable, wire, appliance, equipment or facility to any pole, equipment, or facility owned or controlled by Licensor, or the use of such attachment for the provision of services/capabilities, which is not authorized by the terms of this Agreement, shall be deemed an unauthorized attachment and shall constitute a default of this Agreement. Licensee acknowledges that Licensor may not reasonably ascertain the date or the year in which

an unauthorized attachment may be made, and Licensee agrees that each such unauthorized attachment shall be presumed to have existed for a period of four (4) years prior to its discovery. This presumption may be rebutted by documentation establishing, to Licensor's reasonable satisfaction, the actual date of attachment. With respect to all such unauthorized attachments, within forty-five (45) days of demand by Licensor, Licensee shall pay to Licensor in a lump sum, plus interest at the Interest Rate (as defined in Section 22.b.), applicable attachment fees retroactive to the presumed date of unauthorized attachment. In the event Licensee has a bona fide claim that one or more attachments are not unauthorized, Licensee shall pay the undisputed amount of retroactive attachment fees, plus interest at the Interest Rate, within the above 45-day period and shall within such period identify in writing the specific poles, including without limitation the location of same (where practicable) that are the subject of the dispute, and shall submit within such period its reasons as to why each attachment is not unauthorized. Within 45 days after the dispute is resolved and an invoice rendered, Licensee shall pay for the unauthorized attachments no longer in dispute the applicable attachment fees in lump sum, plus interest at the Interest Rate, retroactive to the presumed date of unauthorized attachment.

b. In addition to the retroactive Attachment fees specified in paragraph 23.a, Licensee shall pay as a penalty fee the amount of fifty dollars ($50) per unauthorized attachment, whether discovered in a field count or otherwise. The parties agree that no unauthorized attachment penalties shall apply for the first 2% of any variance identified in a field count as measured against existing records.

c. No act or failure to act by Licensor with regard to unauthorized attachments shall constitute a ratification of such attachments. In addition to payment of amounts as specified in this paragraph, Licensee shall submit an application for attachment within 30 days of notification that the unauthorized attachment has been discovered.

24. Damage to Licensor's Facilities Caused by Licensee

In conducting its operations under this Agreement, Licensee shall avoid causing damage to facilities of Licensor or of other parties attached to poles, equipment, or any other facilities of Licensor, and Licensee hereby assumes full responsibility for all such damage caused by it or its contractors. Licensee shall make an immediate report to the Licensor or to the other party in the event that such damage occurs and the Licensee hereby agrees to reimburse the Licensor or other party for the expense of making repairs.

25. Responsibilities Associated with Licensee's Work on Poles of the Licensor

a. With respect to the installation of its Attachments to Licensor's distribution poles or other work undertaken by Licensee pursuant to this Agreement, Licensee shall be solely responsible for ensuring that all work is performed in accordance with the requirements of this Agreement, the NESC, and other applicable Codes and Laws. Licensor shall not exercise any control over the manner in which such work is performed. Licensee shall not cause or permit any person, other than a qualified and authorized worker who knows and appreciates the character of electricity and the danger of working in proximity to wires and other electric distribution facilities which are or may be energized with electricity at the various voltages used in supplying electricity for public use, to climb any pole, or to work upon any of Licensee's cable, wire, appliance,

equipment or facility attached to any pole, equipment, or facility owned or controlled by Licensor; and, as to any such person as may be authorized or permitted by Licensee to climb any such pole or to perform any such work, it shall not be Licensor's responsibility to warn him of the danger involved in working or being close to Licensor's wires and facilities, nor to provide supervision over the work being done by such person at any time. Before any person performs any work for Licensee on or near any poles, equipment or facilities owned or occupied by Licensor, Licensee must adequately warn such person of the dangers inherent in making contact with the electrical conductors of Licensor and of failing to maintain the distance from such conductors required by the Codes and Laws. IN NO EVENT SHALL A LICENSEE REPRESENTATIVE CLIMB OR WORK ABOVE THE COMMUNICATION SPACE ON THE POLE.

b. Prior to its employees or contractors climbing or performing other work on any Licensor poles, Licensee shall determine for itself whether such pole is safe to climb or safe for the performance of other work on or near the pole. As set forth in paragraph 11.b above, Licensor or its contractor may from time to time inspect poles to which Licensee is attached, and may place tags or other markings on such poles indicating the condition of the pole and/or whether the pole is safe to climb. LICENSEE SHALL INFORM ITS EMPLOYEES AND CONTRACTORS OF THE MEANING OF SUCH TAGS OR OTHER MARKINGS. Licensor's election to inspect any pole is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensor's part with respect to Licensee or its facilities that is not expressly set forth in this Agreement. The placement of an inspection tag or other marking, or lack thereof, on a pole shall not relieve Licensee of its responsibility to determine for itself whether any particular pole is safe for climbing or other work.

26. Indemnification

a. The use of Licensor's distribution poles as provided for in this Agreement is not for the benefit of Licensor; rather, it is solely for the benefit of Licensee in carrying on its business of supplying the services authorized herein; and it is understood that the hazards of electricity transmitted at voltages necessary for public use over Licensor's facilities may be increased by the existence of any of Licensee's cables, wires, appliances, equipment or facilities which may be attached to Licensor's distribution poles, equipment, or facilities; and this Agreement is entered into with the explicit understanding that, except as set forth below, Licensee assumes sole responsibility and liability for all injuries and damages arising, or claimed to have arisen, by, through or as a result of any of its cables, wires, appliances, equipment or facilities (or of a third-party overlasher to Licensee's cables, wires, appliances, equipment or facilities) attached to Licensor's poles, equipment, or facilities, it being understood, however, that Licensee shall have no liability for injuries and damages (a) caused by, through or as a result of the sole negligence of Licensor or its contractors; or (b) caused by, through or as a result of the willful or wanton misconduct of Licensor or its contractors; or (c) caused solely by, through or as a result of the facilities or activities of any third party (or parties) whose cables, wires, appliances, equipment or facilities are attached to the same poles as Licensee's cables, wires, appliances, equipment or facilities.

b. Accordingly, without limiting the effect of the provision of the immediately preceding paragraph, and except as set forth below, Licensee expressly agrees to indemnify, defend and save harmless Licensor and the Indemnified Parties from all liability, claims, demands,

actions, judgments, loss, costs and expenses (collectively, "Claims") arising or claimed to have arisen by, through or as a result of any of Licensee's cables, wires, appliances, equipment or facilities attached to Licensor's poles, equipment, or facilities, arising out of the breach of the representations and warranties of Licensee hereunder, or as a result of the acts or omissions of any of the Licensee Entities, in respect to (a) damage to or loss of property (including but not limited to property of Licensor or Licensee); (b) injuries or death to persons (including but not limited to injury to or death of any Licensee Entities or members of the public); (c) any interference with the television or radio reception of, or with the transmission or receipt of telecommunications by, any person which may be occasioned by the installation or operation of Licensee's cables, wires, appliances, equipment or facilities; (d) the proximity of Licensee's cables, wires, appliances, equipment or facilities to the wires and other facilities of Licensor; (e) any claims upon Licensor for additional compensation for use of its distribution rights-of-way for an additional use; and (f) any injuries sustained and/or occupational diseases contracted by any of the Licensee Entities of such nature and arising under such circumstances as to create liability therefor by Licensee or Licensor under the Alabama Workers' Compensation Act and all amendments thereto, including also all claims and causes of actions of any character which any such employees, the employers of such employees, and all persons or concerns claiming by, under or through them or either of them may have or claim to have against Licensor resulting from or in any manner growing out of any such injuries sustained or occupational diseases contracted; it being understood, however, that Licensee shall have no liability for injuries and damages (a) caused by, through or as a result of the sole negligence of Licensor or its contractors; or (b) caused by, through or as a result of the willful or wanton misconduct of Licensor or its contractors; or (c) caused solely by, through or as a result of the facilities or activities of any third party (or parties) whose cables, wires, appliances, equipment or facilities are attached to the same poles as Licensee's cables, wires, appliances, equipment or facilities. In any matter in which Licensee shall be required to indemnify Licensor hereunder, Licensee shall control the defense of such matter in all respects, and Licensor may participate, at its sole cost, in such defense. Licensor shall not settle or compromise any matter in which Licensee is required to indemnify Licensor without the prior written consent of Licensee. Licensor shall seek indemnification from each attacher or joint user involved in causing any Claims against Licensor on a non-discriminatory basis.

27. Licensee's Insurance Requirements

a. Licensee shall obtain and maintain during the term of this Agreement, as long as Licensee's Attachments remain on Licensor's poles, and for a period of two (2) years after removal of Licensee's Attachments, insurance providing at a minimum the coverages and limits set forth in Exhibit C.

b. Licensee, by signing this Agreement waives, and will require its insurers to issue an endorsement to the above policy or policies to waive, all rights of subrogation against Licensor with respect to any claim or loss payable or paid under each of the above policies. Licensee shall cause its insurers to issue endorsements to add Licensor as an Additional Insured party on the policies set forth above, except for the workmen's compensation policy, arising out of the performance of operations or services by or on behalf of Licensee under this Agreement. The company or companies issuing such insurance shall be licensed to do business in the State of Alabama, acceptable to Licensor, and shall have an A.M. Best's rating of AIII or better (or equivalent).

c. Licensee's insurance shall be primary insurance with respect to activities and work related to this Agreement and insurance of Licensor shall be excess of Licensee's insurance and shall not contribute with it. To the extent that Licensee utilizes deductibles or self-insurance in connection with the insurance coverages required herein, all such deductibles and self-insured amounts shall be for the account and expense of Licensee and shall be considered the same as primary insurance and Licensor's insurance shall not contribute with same.

d. Licensee shall submit to Licensor certificates by each company insuring Licensee and Licensor signed by an authorized representative of such insurance company, certifying that the insurance coverages required hereunder are in effect for purposes of this Agreement, that the insurance policies cover Licensee's indemnity obligations in Section 26 of this Agreement, that Licensor is an additional insured party on each of the above-required policies, and that the right of subrogation against Licensor is waived with respect to the above policies. Such insurance certificates will certify that the insurer will not cancel, change, nor fail to renew any policy of insurance issued to Licensee except after thirty (30) days' written notice to Licensor. It is understood that the provisions requiring Licensee to carry insurance shall not be construed as in any manner waiving or restricting the liability of Licensee as to any obligations imposed under this Agreement or limit the liability of Licensee whether or not the same is covered by insurance.

e. Licensee, in its agreements with its contractors, shall incorporate all contractual requirements that are prescribed in this Section 27 or, alternatively, Licensee shall add such contractors to Licensee's policies of insurance to meet the coverage and minimum requirements of this Section 27. If contractors are required to obtain their own insurance coverage in compliance with the requirements of this paragraph, Licensee shall require the contractors to provide insurance certificates naming Licensor as an Additional Insured party. Should Licensee fail to require any one or more of its contractors to maintain such coverage and minimum requirements of this Section 27, and should such failure cause or contribute directly or indirectly to loss, damage or liability to Licensor, then Licensee shall, in accordance with the section hereof entitled "Indemnification", indemnify and hold harmless such person or entity.

f. Licensee and its contractors are absolutely prohibited from performing any work under this Agreement on or near any of Licensor's poles, including but not limited to removal of Attachments after termination of this Agreement, at any time during which Licensee does not have the insurance required by this Section 27.

28. Abandonment of Poles by Licensor

a. If Licensor desires at any time to abandon any distribution pole upon which an Attachment of Licensee is located, Licensor shall give Licensee notice in writing or electronically to that effect at least thirty (30) days prior to the date on which it intends to abandon such distribution pole. Licensor's prior written notice shall be given at least thirty (30) days after Licensee has received a 30-day notice to transfer or abandon certain poles. If at the expiration of such period, Licensor shall have no attachments on such pole but Licensee shall not have removed all of its Attachments therefrom, such distribution pole shall thereupon become the property of Licensee, and Licensee shall indemnify and save harmless Licensor and the Indemnified Parties from all obligation, liability, damage, costs, expenses, and charges incurred thereafter because of, or arising out of, the presence or condition of such pole or of any Attachments thereon; and shall

in addition pay Licensor upon receipt of invoice a sum equal to the then value in place, as determined by the Licensor, of such abandoned distribution pole or poles, or such other equitable sum as may be agreed upon between the parties.

b. Nothing in paragraph 28.a shall be construed to limit, in any way, Licensor's rights to require Licensee to remove its Attachments as set forth in paragraph 15.c.

29. Default of the Agreement

If Licensee shall fail to comply with any of the provisions of this Agreement, or shall default in any of its obligations under this Agreement, and shall fail to cure such default or non-compliance within thirty (30) days (or other such period as may be reasonably necessary in light of the nature of the default), after written notice from Licensor to correct such default or non-compliance, Licensor may, at its option, with an additional thirty (30) days written notice, terminate this Agreement covering the distribution poles as to which such default or non-compliance shall have occurred and remove such Attachments of Licensee at Licensee's expense, and no liability therefore shall be incurred by Licensor because of such action. In the event Licensee fails to meet its obligations under this Agreement, including but not limited to Licensee's payment, insurance, performance assurance and/or indemnification obligations, then, as an alternative to the foregoing, Licensor may, at its option, immediately terminate this Agreement without prior notice and/or forbid new attachments to any of its distribution poles by Licensee until such time as any failure to comply is corrected.

30. Waiver of Terms

Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect. No such failure or enforcement of any term or condition hereunder by either party shall be deemed to be a waiver unless the same is waived in writing by the other party.

31. Rights of Other Parties

Nothing herein contained shall be construed as affecting the rights or privileges previously conferred by Licensor, by contract or otherwise, to others, not parties to this Agreement, to use any distribution poles covered by this Agreement; and Licensor shall have the right to continue and extend such rights and privileges. The access privileges herein granted are non-exclusive and shall at all times be subject to such existing contracts and arrangements to the extent consistent with applicable law.

32. Assignment; Leasing; Overlashing

a. Under no circumstances shall Licensee assign or transfer the whole or any part of this Agreement without the prior consent in writing of Licensor. Unless Licensor gives prior express written consent to assignment or transfer, the original counterparty (Licensee) shall remain fully liable to Licensor under this Agreement. Licensee shall give prompt notice to Licensor of any intended assignment and with such notice shall submit substantiating documentation of such proposed assignment. Any assignment or transfer attempted without Licensor's prior written

consent shall be null and void. Consent shall not be unreasonably withheld, provided that Licensee's successor in interest provides adequate proof at least sixty (60) days prior to assignment or transfer that it can fulfill the contractual obligations under this Agreement.

b. In the event Licensee sells or transfers any attachments subject to this Agreement, Licensee agrees to execute and provide to Licensor at least sixty (60) days prior to the sale, transfer, or assignment, Exhibit F hereto.

c. Under no circumstances shall Licensee sub-license its rights under this Agreement, or sub-license its Attachments made pursuant to this Agreement.

d. At least fifteen (15) days prior to any overlashing of Licensee's facilities, Licensee shall provide written notice to Licensor of its intent to overlash, by completing and submitting Licensor's Overlash Notification Form ("ONF"). It shall be Licensee's duty in all instances to ensure that the overlashing, attaching or leasing described in the submitted ONF does not overload the pole(s). In the event Licensee overlashes its facilities, or permits a third party to overlash its facilities, such overlashing shall constitute an express representation and warranty from Licensee that said overlashing does not overload the pole(s), is not made to a pole with a violation of the NESC or Licensor's Policies and Procedures, and that said overlashing does not constitute an immediate threat to persons or property. The parties agree that this representation and warranty is made merely by virtue of Licensee's overlashing or permission for third party overlashing and that said representation and warranty shall not be effected by Licensee's failure to complete and submit an ONF. Prior to overlashing or permitting overlashing on its facilities Licensee shall complete or have completed a pole loading analysis sufficient to allow Licensee and Licensor to determine whether the contemplated overlashing will or will not overload Licensor's poles, cause or create a violation of the NESC or Licensor's Policies or Procedures, or cause or create an immediate threat to persons or property. Licensee shall submit all information used in this pole loading analysis with its ONF.

e. Neither Licensee nor any third party is permitted to overlash Licensee's facilities where such overlashing would be made on poles or attachments with violations of the NESC or Licensor's Policies and Procedures. Neither Licensee nor any third party is permitted to overlash Licensee's facilities where such overlashing creates or poses an immediate threat to persons or property. Any leasing or overlashing in violation of this Section 32 shall constitute a default of the Agreement and shall be subject to the remedies set forth in other provisions of this Agreement.

33. Reorganization; Buyout; Change of Name; Transfer of Assets

a. Licensee shall give written notice to Licensor within thirty (30) days of the effective date of any reorganization, buyout, sale or change of name of Licensee, or the purchase by Licensee of or merger with any other telecommunications carrier or cable television system. Such notice shall include, at a minimum, the name of the new company, the new contact information required in the "Notices" section of this Agreement, and the effective date of such transaction.

b. In the event Licensee sells some or all of its assets covered by this Agreement to another entity, Licensee shall remain liable for any and all obligations arising out of such Attachments until such time as the purchaser has executed a new pole license agreement with

Licensor (unless Licensor has consented to an assignment of this Agreement) and provided to Licensor the proof of insurance and performance assurance required by Sections 27 and 37 of this Agreement.

34. No Ownership Rights of Licensee

No use, however extended, of Licensor's distribution poles under this Agreement shall create or vest in Licensee any ownership or property rights in said distribution poles, but Licensee's rights shall always be and remain a mere license. Nothing herein contained shall be construed to compel Licensor to maintain any of said distribution poles for a period longer than demanded by its own service requirements.

35. Term of the Agreement

This Agreement shall become effective upon the date stated above and shall continue in effect for an initial term of three (3) years. Upon completion of the initial term and unless earlier terminated as set forth herein, this Agreement shall continue in effect until terminated by either party, upon at least six (6) months' prior written notice to the other.

36. Removal of Attachments upon Termination

Upon termination by either party, Licensee shall remove all of its cables, wires, appliances, equipment and any other facilities from the poles, equipment, and facilities of Licensor within ninety (90) days of termination, unless the Parties agree to extend the time within which the facilities must be removed while they are in the process of negotiating a new agreement. If not so removed within the required time, Licensor shall have the right to remove them at the cost and expense of Licensee, in any manner Licensor chooses (including a "wreck out" of the system) and without any liability therefore. However, if this Agreement is terminated for any reason, the obligations of Licensee under this Agreement shall remain in full force and effect until such time as Licensee's cables, wires, appliances, equipment and facilities are removed from the poles, equipment, and facilities of Licensor.

37. Licensee's Performance Assurance Requirements

Licensee shall furnish a surety bond or a letter of credit ("Performance Assurance"), in a form reasonably acceptable to Licensor, to guarantee the payment of any sums which may become due to Licensor under any of the provisions of this Agreement including without limitation annual attachment fees; costs of transfers, inspections, maps, work order preparation/engineering/revision, curing non-compliance with Codes and Laws and Licensor's Specifications, removal of Attachments upon termination of this Agreement, periodic field counts, and other reimbursable costs incurred by Licensor. The list of items in the preceding sentence is not intended to be an exclusive list of the sums to be guaranteed by the Performance Assurance. The Performance Assurance shall be in the amount as specified in Exhibit D and shall remain in effect throughout the term of this Agreement and thereafter as long as Licensee has Attachments on Licensor's distribution poles or until such time as all outstanding obligations of Licensee under this Agreement are satisfied.

38. Entire Agreement

This Agreement supersedes all previous agreements, representations, and understandings between Licensor and Licensee for placement and maintenance of Attachments of Licensee on distribution poles of Licensor, and may not be modified except in writing upon the mutual agreement of both parties hereto, evidenced by the signature of an authorized representative of each party hereto. All Pre-existing Attachments shall be subject to the terms and conditions of this Agreement.

39. Unenforceable Provisions

Should any provision of this Agreement be held unenforceable or invalid by any court or agency of competent jurisdiction, Licensor and Licensee shall negotiate in good faith for replacement language, so long as the unenforceability of such provision is not being appealed by either party.

40. Cumulative Remedies

The remedies reserved to Licensor and Licensee in this Agreement are cumulative and shall be in addition to any other further remedies provided at law.

41. Limitation of Liability; Warranty Exclusion

a. Licensor shall not be liable for indirect, incidental, special, consequential or punitive damages of any kind, including without limitation lost profits, savings or revenues, and claims of customers. Licensee agrees that any claim brought against Licensee shall be subject to and covered by the insurance policy or policies Licensee acquires pursuant to its obligations to do so under this Agreement.

b. LICENSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE REGARDING THE CONDITION, SAFETY, OR ANY OTHER ASPECT OF ANY POLE OR ANY SERVICE MADE AVAILABLE TO LICENSEE UNDER THIS AGREEMENT.

42. No Publicity

Neither party shall publish or use any advertising, sales promotions, or other publicity materials that use the other party's logo, trademarks or service marks without the prior written approval of the other party. Nothing in this Agreement establishes a license for either party to use any of the other party's brands, marks or logos without the prior written approval of the other party.

43. Survival of Terms

The provisions, including (but without limitation) the indemnification, Performance Assurance and other security and insurance provisions, that by their sense and context are intended to survive the completion of performance by either or both parties shall so survive such completion

of performance. At a minimum, all such provisions of the Agreement will remain in effect so long as Attachments remain on Licensor's poles.

44. Governing Law and Venue

The execution, interpretation, construction, performance and enforcement of this Agreement and the rights and obligations of the parties shall be governed by Alabama law to the extent not superseded by federal law. Any disputes arising out of this Agreement shall be resolved in the state and federal courts of Alabama, the Alabama Public Service Commission or the Federal Communications Commission consistent with applicable law. Nothing in this paragraph, or any other part of the Agreement, shall be construed to vest jurisdiction or venue in the Federal Communications Commission where it otherwise does not exist.

45. Notices

a. All notices associated with the administration of the Agreement (including but not limited to insurance certificates, Performance Assurance and other financial security, requests to assign, notices of reorganization and abandonment) shall be in writing and shall be delivered in person or shall be sent by certified mail or Express Mail service, postage prepaid and return receipt requested, or by nationally utilized overnight delivery service, addressed to the parties as follows:

If to Licensor:

Alabama Power Company
600 N. 18th Street
P.O. Box 2641
Birmingham, Alabama 35291-0757
Attn: Manager-Power Delivery Business Processes

If to Licensee:

_____
_____
_____
Attention:_____
_____(phone)
_____(email)

Invoices to Licensee shall be sent to the following address:

_____
_____
_____
Attention:_____
_____(phone)
_____(email)

b. All notices associated with Operational, Engineering, or Construction matters, Electronic Notices, Applications to Attach and other notices in accordance with this Agreement and the Policies and Procedures shall be sent to each party's local offices or other designated locations. Any notice shall be deemed received when delivery is made to the above address or to any other address designated in writing and delivered to the other party in accordance with this provision.

46. No Third-Party Beneficiaries

This Agreement is for the benefit of the parties hereto, and not for the benefit of any third party. No provision of this Agreement should be construed to inure to the benefit of any third party, unless expressly stated herein.

47. Confidentiality

Licensee and Licensor agree to keep in strict confidence and prevent disclosure to others any Confidential Information without prior written consent of the other. "Confidential Information" is information furnished by one of the parties to, or developed under, this Agreement that is not generally known to the public. Such information is proprietary to and may take the form of documentation, drawings, specifications, technical or engineering data, business information, facilities location maps, and other forms, and may be communicated orally, in writing, by electronic or magnetic media, by visual observation, and by other means. Any question as to the confidential nature of information transferred from one party to the other shall be addressed to an authorized representative of the other party for clarification. Licensee and Licensor agree to limit the disclosure of Confidential Information only to their employees who have a need to know in order to perform their jobs, and to advise those employees of their obligation with respect to the Confidential Information. Licensee and Licensor agree to ensure that any contractors used by the Licensee or Licensor will comply with this provision. Failure of any third party to comply with the confidentiality provision shall not negate the obligations hereunder with respect to any and all Confidential Information to which Licensee or Licensor has access. Nothing in this provision shall be interpreted to interfere or impede, in any way, with Licensor's reasonable and necessary communication with other attachers for the purposes of transferring attachments, correcting safety violations, performing make-ready work, or conducting routine or special maintenance.

48. Exhibit B

Except for the initial term of this Agreement, Licensor may revise Exhibit B from time to time, without the necessity of a formal amendment to the Contract, to reflect additions to, deletions from and other changes in Licensor's reimbursable activities and costs. Such revision shall become effective on the date it is submitted to Licensee's address designated in the "Notices" provision. The substitute Exhibit B shall, on its effective date automatically supersede all previous Exhibits B and shall become a part of this Agreement by reference.

49. Good Faith Negotiation

The parties acknowledge that the rates, terms and conditions set forth in this Agreement were agreed to voluntarily after good faith negotiations at arm's length and contain concessions, valuable consideration, benefits and burdens for and from both parties.

50. Representations and Warranties of Licensee

a. Licensee is duly organized and validly existing in good standing under the laws of the state of its formation and is qualified to do business in the state of Alabama. Licensee has the requisite power and authority to enter into this Agreement, to perform its obligations hereunder, and to conduct its business as now being conducted.

b. The execution, delivery, and performance of this Agreement by Licensee and all other agreements referenced herein or ancillary hereto which Licensee is a party, and the consummation of the transactions contemplated hereby, (i) are within its corporate powers, are not in contravention of law or of the terms of its organizational documents, and have been duly authorized by all appropriate corporation action(s); (ii) will not violate any statute, law, rule or regulation of any governmental entity to which it or its assets may be subject; and (iii) will not violate any judgment, decree, writ or injunction of any court or governmental entity to which it or its assets may be subject.

Witness:

_____

_____
Licensee

By: _____

_____
(Print Name Here)

Title: _____

Date: _____

Witness:

ALABAMA POWER COMPANY
Licensor

_____

By:_____

_____
(Print Name Here)

Title: _____

Date: _____

EXHIBIT A

ANNUAL ATTACHMENT FEES

The Annual Attachment Fee under the Pole License Agreement between Licensee, _____, and Licensor, Alabama Power Company, shall be computed as follows:

1. For cable television attachments (which are not used to provide telecommunications services), the fee shall be computed using the FCC's Cable Formula, with the following clarifications and modifications:

   a. accumulated depreciation for Accounts 364, 365, and 369 to be calculated using Licensor's gross to net ratio for total electric plant.

   b. one-half of Licensor's investment in overhead grounds (booked in FERC Account 365) to be included in the per pole investment calculation; and

   c. Accumulated Deferred Income Taxes to be treated as zero cost item in the cost of capital.

   By way of example, the rate for cable television attachments (which are not used to provide telecommunications services) as calculated under this Exhibit A formula for the July 1, 2017 through June 30, 2018 billing period (based on year end 2016 data) was $_____.

2. For attachments by telecommunications carriers, or otherwise used to provide telecommunications services, the fee shall be computed using the FCC's Telecom Formula, with the following clarifications and modifications:

   a. accumulated depreciation for Accounts 364, 365, and 369 to be calculated using Licensor's gross to net ratio for total electric plant.

   b. one-half of Licensor's investment in overhead grounds (booked in FERC Account 365) to be included in the per pole investment calculation; and

   c. Accumulated Deferred Income Taxes to be treated as zero cost item in the cost of capital.

   By way of example, the rate for telecommunications attachments as calculated under this Exhibit A formula for the July 1, 2017 through June 30, 2018 billing period (based on year end 2016 data) was $_____.

EXHIBIT A-1

MODIFIED / CLARIFIED CABLE RATE FORMULA

$$\text{Annual Rate per Pole} = \frac{\text{Space Occupied}}{\text{Usable Space}} \times \frac{\text{Net Pole Investment}}{\text{Total Number of Poles}} \times \text{Carrying Charge Rate}$$

Where

Space Occupied = 1 foot
Usable Space = 13.5 feet

And

Net Pole Inv. = ((Gross Pole Inv. (Account 364) x .85) + Half Grounds in Acct. 365) x (Net Elec. Inv. / Gross Elec. Inv. (Acct. 101))

Where: Net Electric Investment = Gross Electric Inv. (Account 101) - Accumulated Elec. Plant Depreciation (Account 108)

Carrying Charge Rate = Administrative + Maintenance + Depreciation + Taxes + Return

$$\textit{Administrative Element} = \frac{\text{Total General and Administrative (Accts. 920-931, 935)}}{\text{Gross Electric Plant Investment (Account 101) - Accumulated Electric Plant Depreciation (Account 108)}}$$

$$\textit{Maintenance Element} = \frac{\text{Account 593}}{\text{Gross Inv. in Accts 364, 365, and 369 x (Net Elec. Inv. / Gross Elec. Inv. (Acct. 101))}}$$

Where: Net Electric Investment = Gross Electric Inv. (Account 101) – Accumulated Elec. Plant Depreciation (Account 108)

Depreciation Element = Dep. Rate for 364 x (Gross Elec. Investment / Net Elec. Investment)

Where: Net Electric Investment = Gross Elec. Inv. (Account 101) - Accumulated Elec. Plant Depreciation (Account 108)

$$\textit{Taxes Element} = \frac{\text{Acct. 408.1} + \text{Acct. 409.1} + \text{Acct. 410.1} + \text{Acct. 411.4} - \text{Acct. 411.1}}{\text{Gross Total Plant Investment - Accumulated Total Plant Depreciation}}$$

Return Element = Applicable Rate of Return that encompasses the weighted average cost of capital component, as set by the Alabama PSC

EXHIBIT A-2

TELECOM RATE FORMULA

$$\text{Annual Rate per Pole} = \frac{\text{Space Occupied} + \frac{(2 \times \text{Unusable Space})}{(3 \quad \text{No. of Attaching Entities})}}{\text{Pole Height}} \times \frac{\text{Net Pole Inv.}}{\text{Total Poles}} \times \text{Carrying Charge Rate}$$

Where:

Space Occupied = 1 foot
Unusable Space = 24 feet
Number of Attaching Entities = 2, 3 4, or 5
Pole Height = 37.5 feet

And:

Net Pole Investment and Carrying Charge Rate are calculated as specified on Exhibit A-1 of this Agreement in the Modified / Clarified Cable Rate Formula.

For purposes of the Telecom Rate Formula only, Net Cost of a Bare Pole (which is Net Pole Investment/Total Number of Poles) shall be multiplied by 0.66 , 0.56, 0.44, or 0.31 depending on the average number of attaching entities in the service area (5 = 0.66 multiplier, 4 = 0.56 multiplier, 3 = 0.44 multiplier, 2 = 0.31 multiplier)*.

* This rate formula was adopted by applying the rate formula enumerated in the FCC's 2016 *Order on Reconsideration*. Licensor reserves the right to adjust the aforementioned formula in the event there is any subsequent change in the applicable law or regulations.

EXHIBIT B

COST SCHEDULE

During the process of applying for pole attachment authorization, and during the term of this Agreement, Licensee is required to reimburse Licensor's costs incurred in connection with Licensee's request to attach. These activities, and the amount of costs to be reimbursed, are shown below. These items and amounts are subject to change as provided in the Agreement.

Facilities Location Maps	$25.00 for first sheet, $5.00 for each copy of the first sheet
Pre-attachment inspection	Total APC Cost
Work order preparation/engineering for modifications of existing poles (including rearrangement of existing attachments) or new construction	Total APC Cost
Revised work order, if in excess of original	Total APC Cost (less amount previously paid)
Post-attachment inspection	Total APC Cost
Transfers of Attachments	$50.00
Curing Attachments' noncompliance with Codes and Laws	Total APC Cost
Special inspections	Total APC Cost
Periodic Field Counts	Total APC Cost

EXHIBIT C

INSURANCE SCHEDULE

Commercial general liability insurance on an Occurrence basis, the amounts of which shall be at least $2,000,000 for each Occurrence, and $2,000,000 for products-completed operations, except where Licensee has 1,500 or fewer Attachments on Licensee's poles, in which case Licensee shall carry at least $1,000,000.

Business Automobile Liability insurance covering autos of Licensee, including owned, hired and non-owned automobiles, for Bodily Injury and Property Damage with a combined single limit of at least $1,000,000 each Occurrence for any year in which Licensee has more than 7,500 attachments. For any year in which Licensee has 7,500 or fewer attachments, Licensee shall carry at least the amount of Business Automobile Liability insurance required by law.

Excess Liability Insurance in Umbrella, follow form coverage with a limit of at least $8,000,000 each Occurrence for any year in which Licensee has more than 7,500 Attachments on Licensor's poles under this Agreement, or

Excess Liability Insurance in Umbrella, follow form coverage with a limit of at least $3,000,000 each Occurrence for any year in which Licensee has 1,501 to 7,500 Attachments on Licensor's poles under this Agreement, or

Excess Liability Insurance in Umbrella, follow form coverage with per-Occurrence limits such that the aggregate amounts of insurance (primary + excess) equals not less than $5,000,000 for any year in which Licensee has 1500 Attachments or less on Licensor's poles under this Agreement.

Workmen's Compensation Laws in statutory amounts, and Employers Liability coverage in an amount of at least one million dollars ($1,000,000) combined single limit.

EXHIBIT D

PERFORMANCE ASSURANCE SCHEDULE

Number of Attachments		Rate	Cumulative Coverage Amount
From	To		Up to
1	3,000	$100/Attachment	$300,000
3,001	6,000	$75/Attachment	$525,000
6,001	25,000	$50/Attachment	$1,475,000
More than 25,000		$25/Attachment	---

The minimum amount of coverage is $50,000.

For the purpose of determining the amount of coverage required, the number of Attachments shall be the total number for which annual attachment fees were billed at the beginning of the current Contract Year. Maximum coverage is $2,500,000.

EXHIBIT E

SPECIAL INSPECTIONS

If during the course of performing periodic inspections, or through any other means, Licensor finds a pattern of recurring violations (at least ten violations of Licensee's Attachments for every 100 Licensee Attachments inspected), Licensor shall have the right, but not the obligation, to perform a special inspection at the Licensee's expense. Licensor shall notify Licensee at least thirty (30) days in advance of performing the special inspection of the location, nature and number of violations. Licensee shall participate in the special inspection. The special inspection will be limited to the substation on which the violations are found and to no more than approximately 20% of the Licensee's system in a calendar year, provided Licensee's system exceeds 1,000 attachments, unless agreed upon otherwise. Special inspections will be performed by Licensor personnel or, if contracted to a third party, will be competitively bid every third year. Licensor shall provide Licensee written notice at least 30 days in advance of issuing requests for information in order that Licensee may provide suggestions for contractors to be included on bid lists for special inspection contracts. However, all contractors must meet Licensor's bidder qualification requirements to be included on the bid list. To be considered for an award of a contract, a bidder must be a responsible bidder and must submit a responsive bid. Nothing in this Exhibit or Section 11 shall require Licensor to deviate from its normal bid procedures, nor shall anything in this Exhibit or Section 11 prohibit Licensor from conducting any special inspections at its own expense.

EXHIBIT F

AGREEMENT TO ASSUME RIGHTS AND OBLIGATIONS OF POLE LICENSE AGREEMENT (1 OF 2)

[NEW ENTITY] and [LICENSEE], Licensee to Pole License Agreement No. _____, have entered into an agreement whereby [NEW ENTITY] will assume ownership of the following pole attachments attached to Licensor's poles:

[IDENTIFY ATTACHMENTS AT ISSUE BY NUMBER AND LOCATION]

The above-identified attachments are currently governed by Pole License Agreement No. _____. [NEW ENTITY] is not currently a party to a pole license agreement with Alabama Power Company ("Licensor"). Licensee and [NEW ENTITY] recognize that Licensor has not consented to the assignment of Pole License Agreement No. _____.

In recognition of the above, [NEW ENTITY] agrees to be bound by all the terms of Pole License Agreement No. _____, as though it is an original counterparty to same, until such time as [NEW ENTITY] enters a new and independent Pole License Agreement with Licensor for the above-identified attachments. [NEW ENTITY] and Licensee expressly recognize and agree that should [NEW ENTITY] at any time fail to comply with the terms of Pole License Agreement No. _____ prior to entering into a new and independent Pole License Agreement with Licensor, Licensee shall remain fully liable under the terms of Pole License Agreement No. _____ with respect to the above-identified attachments.

[NEW ENTITY] agrees to provide a written copy of this Exhibit F, executed by representatives from both [NEW ENTITY] and [LICENSEE], to Licensor no less than sixty (60) days prior to assumption of ownership of the above-identified attachments. [NEW ENTITY] expressly agrees to provide all necessary contact information and documentation (including proof of insurance and performance bond) required by Pole License Agreement No. _____ to Licensor no less than fifteen (15) business days prior to assumption of ownership of the above-identified attachments. [NEW ENTITY] and Licensee recognize, understand and agree that [NEW ENTITY]'s failure to provide all necessary contact information and documentation to Licensor's satisfaction shall void this Exhibit F and render Licensee responsible for all obligations of Pole License Agreement No. _____ with respect to the above-identified attachments.

EXHIBIT F

AGREEMENT TO ASSUME
RIGHTS AND OBLIGATIONS OF POLE LICENSE AGREEMENT
(2 OF 2)

[NEW ENTITY]

_____
Name

_____
Title

_____
Signature

_____
Date

_____

_____

_____

_____

_____
Mailing Address and Phone Number

[LICENSEE]

_____
Name

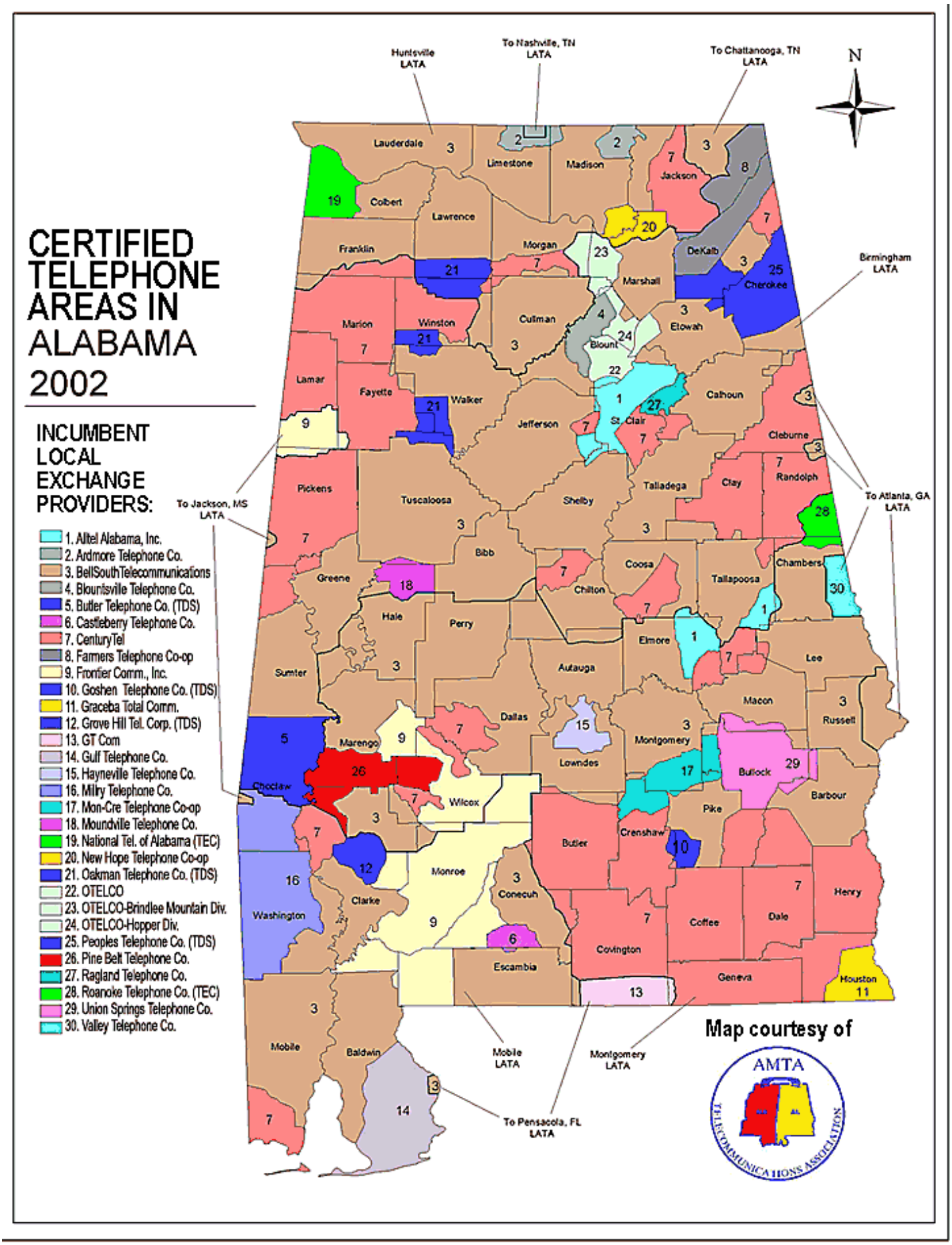
_____
Title

_____
Signature

_____
Date

EXHIBIT 8

PUBLIC VERSION



APC000464

EXHIBIT 9

PUBLIC VERSION

Kyle Hitchcock
Associate Director, National Joint Utility Team

AT&T Techno ogy Operations
National C&E
W63N548 Hanover Avenue
Cedarburg, WI 53012

T: 262.376.5217
kh1392@att.com

March 7, 2018

David Bynum
Alabama Power Company
600 North 18th Street
P.O. Box 2641
Birmingham, AL 32591-0709

BY CERTIFIED MAIL

Re: AT&T Alabama Pole Attachment Rental Rates

Dear Mr. Bynum:

We would like to schedule a meeting with Alabama Power to discuss the pole attachment rental rates that AT&T Alabama ("AT&T") should be paying to attach to Alabama Power's poles.

As you are undoubtedly aware, the FCC's 2011 *Pole Attachment Order* stated that ILECs are entitled by statute to "just and reasonable" rates that are "competitively neutral" to the pole attachment rates that apply to their CLEC and CATV competitors. Alabama Power is charging AT&T rates that are [redacted] *imes higher* than the rates Alabama Power may invoice AT&T's competitors. For example, in 2017, Alabama Power charged AT&T [redacted] per pole, when our calculations show that the new telecom rate for AT&T's competitors, using FCC default inputs, was about $4.80 per pole. We have not yet had an opportunity to review Alabama Power's license agreements, but are confident that AT&T does not enjoy any benefits under the current Joint Use Agreement that give it a net material advantage it over its competitors, and certainly none that would justify this extraordinary [redacted] plus per-pole rate disparity.

AT&T has a right to seek relief from these rates. They are the result of a March 29, 1990 amendment the parties entered when Alabama Power owned 67% of the jointly used poles and AT&T owned 33%. This two-to-one pole ownership disparity justifies rate relief under the FCC's 2011 *Pole Attachment Order* and the 2017 Order in the Verizon v. Dominion case, particularly because AT&T also genuinely lacks the ability to terminate the rental rates because of the evergreen clause in the parties' Joint Use Agreement. The fact that the rates were agreed to before the FCC's 2011 *Pole Attachment Order* is of no consequence, as the FCC's Enforcement Bureau confirmed in the Dominion Order that ILECs are entitled to relief from rates in legacy agreements when low pole ownership numbers "have continuously impacted their ability to negotiate a just and reasonable rate over time." (See the 2017 Order n.53).

Our strong preference would be to avoid lengthy proceedings and negotiate new rates. To that end, we would like to meet with Alabama Power's executives to discuss the appropriate rental rates for our companies. Should the negotiations fail, AT&T reserves the right to seek full relief, including refunds for the [redacted] millions that AT&T has already overpaid. But we are hopeful that we can resolve this expeditiously as business partners.

Please let me know as soon as possible when Alabama Power is available to meet in April, and at what location Alabama Power would prefer. To facilitate our discussions, we also request that Alabama Power provide us copies of its license agreements and 2017 cable and new telecom rate calculations at least two weeks prior to our meeting, so that we can all be better informed about the rental rate that AT&T is entitled to under federal law. Thank you for your anticipated assistance.

Sincerely,

s/ Kyle Hitchcock

Kyle Hitchcock
Associate Director, National Joint Utility Team
AT&T Technology Operations, National C&E

EXHIBIT 10

Alabama Power

600 18th Street North
Bin 10N-0715
Birmingham, AL 35203
(205) 257-4220
slmorgan@southernco.com

April 4, 2018

Mr. Kyle Hitchcock
Associate Director, National Joint Utility Team
AT&T Technology Operations, National C&E
W63N548 Hanover Ave.
Cedarburg, WI 53012

RE: Joint Use Agreement between Alabama Power Company and AT&T

Dear Mr. Hitchcock,

I am in receipt of your March 7, 2018 letter requesting a meeting to discuss the terms of the existing joint use agreement between AT&T and Alabama Power Company ("Alabama Power").

We would be glad to arrange a meeting between our two companies. So that we can ensure the right representatives attend and schedule accordingly, please let me know the following: (1) who from AT&T plans to attend (including whether AT&T intends to have legal representation present); (2) what issues or areas of the relationships (other than rental rates) AT&T would like to discuss; (3) how long you anticipate the meeting will last; and (4) anything else you think might be productive or helpful in planning the meeting.

Of course, we would be willing to host the meeting at our corporate headquarters here in Birmingham. In the interest of moving the ball forward, we could meet on Friday, May 18th otherwise please propose two or three potential dates after May 18th that are convenient for AT&T. Once I hear back from you with the requested information, I will work quickly to get something on the calendar.

I suspect it will not surprise you to learn that Alabama Power reads the FCC's 2011 Order (and the pole attachment complaint proceeding decisions that followed) differently than AT&T. This fact notwithstanding, I see no reason our meeting cannot be fruitful.

I look forward to hearing back from you.

Very truly yours,

Sherri Morgan
Joint Use Team Leader
Alabama Power Company

EXHIBIT 11

PUBLIC VERSION

Kyle Hitchcock
Associate Director, National Joint Utility Team

AT&T Technology Operations
National C&E
W63N548 Hanover Avenue
Cedarburg, WI 53012

T: 262.376.5217
kh1392@att.com

April 13, 2018

Sherri Morgan
Joint Use Team Leader
Alabama Power Company
600 18th Street North
Bin 10N-0715
Birmingham, AL 35203

Re: May 18, 2018 Executive-Level Meeting

Dear Ms. Morgan:

Thank you for your letter and offer to host a meeting to discuss modifying our existing pole attachment rental rates. Your suggestion to meet at your corporate headquarters in Birmingham will work for us, and we propose meeting on Friday, May 18.

I plan to attend the meeting with Dan Rhinehart, Director-Regulatory, and Mark Peters, Area Manager-Regulatory Relations. Our leadership has granted us sufficient authority to agree to new rental rates on behalf of AT&T, and we share your view that our executives can have a fruitful meeting. We propose that the meeting does not include legal counsel as we hope to reach a business agreement without the alternative need for lengthy legal proceedings. Please confirm that this approach is agreeable.

We intend to focus solely on pole attachment rental rates and think that we should reserve two to three hours, 10 am to 1 pm, for the meeting to ensure that we can fully discuss and resolve any differences. To make that time productive, we again request that Alabama Power provide us copies of its license agreements and 2017 cable and new telecom rate calculations as soon as possible, and no later than May 1. We would also appreciate receiving any other rental rate calculations should Alabama Power deem them pertinent to the discussion, along with a list of the positions and individuals who will be representing Alabama Power at the meeting.

Sincerely,

s/ Kyle Hitchcock

Kyle Hitchcock
Associate Director, National Joint Utility Team
AT&T Technology Operations, National C&E

EXHIBIT 12

From: Morgan, Sherri T. <STMorgan@southernco.com>
Sent: Friday, June 15, 2018 3:46 PM
To: HITCHCOCK, KYLE F <kh1392@att.com>
Cc: Campbell, Russ (Balch) <rcampbell@balch.com>; Estes, Allen (Balch) <aestes@balch.com>; Robin Bromberg <robin@langleybromberg.com>
Subject: Joint Use Agreement between Alabama Power Company and AT&T

June 15, 2018

Via Electronic Mail
Mr. Kyle Hitchcock
Associate Director, National Joint Utility Team
AT&T Technology Operations, National C&E
W63N548 Hanover Ave.
Cedarburg, WI 53012

RE: Joint Use Agreement between Alabama Power Company and AT&T

Dear Mr. Hitchcock,

We appreciate you taking the time to visit with us on June 1. Coincidentally, our meeting took place on the 40th anniversary of the 1978 Joint Use Agreement between Alabama Power and AT&T (the "JUA"). Today, the JUA governs attachments to more than three-quarters of a million poles across the state of Alabama. Until this meeting, Alabama Power has viewed its relationship with AT&T to be a long-term, positive partnership for both parties.

Alabama Power agreed to the June 1 meeting following AT&T's March 16, 2018, request to drastically lower the current rental rates mutually agreed to in our long-standing JUA. AT&T indicated that it based its demand on the FCC's 2011 Order, along with the FCC Market Dispute Resolution Division's 2017 Interim Order in the *Verizon vs. Dominion* matter. Although agreeable to a meet and confer, I noted our disagreement with AT&T's interpretation of the foregoing precedent and suggested that AT&T come to the June 1 meeting prepared to discuss the JUA's multiple financial and operational provisions – not just the parity adjustment.

Unfortunately, the June 1 meeting did not unfold as we had hoped or requested. First, AT&T seeks reduction to a parity adjustment of "about $4.80 per pole," which

amounts to a reduction in the current rate structure (which has been in place nearly twenty-five years following the 1994 implementation of Appendix B to the JUA). At the meeting, AT&T did not seem open to further discussions on this rate. AT&T also sought space allocation not in line with its request.

Second, even though AT&T seeks a rate reduction and unrealistic space allocation changes, AT&T wants to maintain the other operational components of the JUA while simultaneously claiming that AT&T does not enjoy "any benefits" in its joint use relationship beyond those afforded CLEC attachers. That is simply not the case. A comparison of the JUA to our template CLEC Pole License Agreement (a copy of which is attached for your review) belies your assertion.

Finally, AT&T stated that it would request "full relief, including refunds for . . . ' and insisted on a full response within two weeks. And, this request comes as AT&T has inexplicably refused to provide to Alabama Power its 2017 pole cost data to finalize 2017 rentals and while AT&T owes almost for pole modifications. Of course, Alabama Power cannot issue an invoice without the contractually required pole cost data.

Alabama Power is certainly willing to continue discussions and to open negotiations concerning fundamental changes in our historic relationship. Importantly, the Company will not focus myopically on one aspect of our joint pole ownership relationship – the parity adjustment rate – without considering the impact on the other significant operational and financial elements. AT&T seeks to be treated like a CLEC for rate purposes only, but to ignore the historical benefits AT&T has gained over its competitors through the joint use agreement and retain such benefits going forward. Please understand that Alabama Power cannot evaluate your request to be treated as an FCC-regulated entity for rate purposes without evaluating an entirely different operating relationship – an evaluation that will take us (and should take AT&T) longer than two weeks to develop.

Alabama Power is in the midst of evaluating AT&T's requests. The Company has engaged many necessary decision-makers. We will continue to analyze the best course of action for both Alabama Power and AT&T and respond promptly. In the interest of moving the ball forward, please let us know your availability for a follow-up meeting in early/mid-July. We would very much like the opportunity to discuss our partnership further after we have had adequate time to evaluate all aspects of AT&T's requests.

If you have any other thoughts or questions in the short term, do not hesitate to contact me.

Very truly yours,

Sherri Morgan
Joint Use Team Leader
Alabama Power

600 North 18th Street / 10N-0757
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Birmingham, Alabama 35291
Tel 205.257.4220
stmorgan@southernco.com

Alabama Power

cc: Russ Campbell, Allen Estes, Balch & Bingham LLP (via electronic mail)
Robin Bromberg, Langley & Bromberg LLC (via electronic mail)
Mr. Wayne Hutchens – President, AT&T Alabama

EXHIBIT 13

at&t

Kyle Hitchcock
Associate Director, National
Joint Utility Team

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T: 262.376.5217
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June 26, 2018

Via Email STMorgan@southernco.com
Sherri Morgan
Joint Use Team Leader
Alabama Power Company
600 18th Street North
Bin 10N-0715
Birmingham, Alabama 35203

Sherri:

AT&T Alabama ("AT&T") is likewise disappointed because the June 1 meeting did not unfold as we had hoped. Alabama Power had two months to prepare for an executive-level meeting about rental rates, and yet did not provide a rate proposal at the meeting or within the two-week window agreed upon at the meeting. Developing that proposal should not be complicated for Alabama Power because the FCC set the range of rates that applies to these negotiations when it benchmarked rates for ILECs based on its new telecom and pre-existing telecom formulas. Alabama Power must know the new telecom rates that it has been charging AT&T's competitors, and can readily perform the calculation to determine the associated pre-existing telecom rates.

AT&T continues to believe that it is entitled to the new telecom rate. Notably, when trying to justify a higher rate, Alabama Power has not identified or quantified a single competitive advantage that it claims AT&T enjoys under the Joint Use Agreement. The "model" license agreement containing Alabama Power's best-case-scenario license terms adds nothing to the discussion. Only signed license agreements with AT&T's competitors can show the terms and conditions that actually apply to AT&T's competitors. Alabama Power has not provided those agreements; once again, I renew my request for them.

Reducing Alabama Power's exorbitant rental rates is a top priority for AT&T, and it intends to take whatever action is required if our companies cannot soon negotiate new rental rates. Please provide Alabama Power's rate offer without delay, so that AT&T can decide whether another in-person or telephone meeting is warranted.

In the meantime, we will provide the 2017 pole cost data that you have requested. To be clear, that information is not germane to the just and reasonable rental rate Alabama Power may charge AT&T. Federal law entitles AT&T to a reduced rental rate, and to a refund of its past

overpayments. It need not first renegotiate the entire joint use agreement or develop some new "operating relationship." We remain willing to discuss the other terms of our relationship, as I stated at our June 1 meeting. But we need to first quickly reduce the unjust and unreasonable rental rates that Alabama Power has long been charging us in violation of federal law so that we can better compete in today's market for broadband and other advanced services.

Sincerely,

s/ Kyle Hitchcock

Kyle Hitchcock
Associate Director, National Joint Use Team
AT&T Technology Operations, National C&E

EXHIBIT 14

Alabama Power

600 18th Street North
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July 19, 2018

Kyle Hitchcock
Associate Director
National Joint Utility Team
AT&T Technology Operations
National C& E
W63N548 Hanover Ave
Cedarburg, WI 53012

RE: June 1, 1978 Joint Use Agreement between Alabama Power Company and AT&T

Dear Kyle:

Please accept this letter in response to your June 26, 2018 correspondence regarding the above-referenced Joint Use Agreement ("JUA").

AT&T's 2017 Pole Cost Data and 2017 True-Up Invoice

Alabama Power appreciates AT&T's promise to provide its 2017 pole cost data for purposes of calculating the true-up rental rates under the formula set forth in Appendix B to the JUA. Because AT&T typically provides this data no later than early spring of each year, Alabama Power has calculated 2017 true-up rates using AT&T's publicly available ARMIS data. Based on our understanding of the data, AT&T's 2017 average embedded pole cost was , yielding a true-up rate for Alabama Power, as Licensee, of /pole. Please let us know if you believe this is incorrect. The true-up rate for AT&T, as Licensee, is 'pole. Alabama Power will send the 2017 true-up invoice (plus accrued interest) shortly based on these figures.

Information Requested by AT&T

AT&T previously requested two pieces of information: (1) exemplar CATV and CLEC pole license agreements; and (2) Alabama Power's CATV and CLEC rate calculations. Enclosed are two (redacted) exemplar agreements, one with a CATV and one with a CLEC. These agreements are nearly identical in substance to the template agreement I transmitted to you on June 15, 2018. With respect to your request for CATV and CLEC rate information, Alabama Power's 2017 annual pole cost (based on FERC Form 1 data) is , which is not materially different than the annual pole cost (average embedded pole cost x limited operating charge) used for purposes of calculating the Appendix B rates. This figure was calculated using the FCC's annual pole cost formula, along with the adjustments and clarifications Alabama Power negotiated with its CATV and CLEC licensees. Though Alabama Power continues to believe the methodology set forth in Appendix B more accurately captures the company's cost of joint use pole ownership (and, perhaps more importantly, the intent of the parties), the FCC methodology corroborates rather than undermines Appendix B.

FCC Precedent

Your June 26 letter states that "developing [a rate] proposal should not be complicated for Alabama Power." Alabama Power respectfully disagrees. As we have indicated previously and continue to explain below, this process is complicated by numerous things. First, AT&T's understanding of the applicable precedent is inaccurate. Second, AT&T has not shared any analysis, quantification or other data purporting to support an adjustment to the existing cost sharing arrangement between the parties, let alone the massive windfall AT&T

proposes. To be specific, Alabama Power is requesting the type of analysis/data AT&T would be required to present in any proceeding regarding the rates in the JUA.

- **Just and Reasonable Rates for Historic Joint Use Agreements Are Not Bound by the Old or New Telecom Rates.**

AT&T claims in its June 26 letter that the FCC "set the range of rates that applies to these negotiations when it benchmarked rates for ILECs based on its new telecom and pre-existing telecom formulas." This is simply incorrect. In the FCC's Report and Order and Order on Reconsideration, Implementation of Section 224 of the Act; A Nat'l Broadband Plan for Our Future, 26 FCC Rcd 5240, ¶¶ 217 (2011) (the "2011 Order"), the FCC stated, "just and reasonable pole attachment rates for incumbent LECs **are not bound by the formulas in sections 224(d) and (e).**" The FCC later affirmed this finding in its Verizon v. FPL decision:

> In Verizon's view, there are only two possible just and reasonable rates for incumbent LEC pole attachments--the New and Old Telecom Rates. But the Commission specifically found in the Pole Attachment Order that "just and reasonable pole attachment rates for incumbent LECs are not bound by the formulas in sections 224(d) and (e)." In support of applying the Old Telecom Rate, Verizon cites the Order's statement that the Commission would consider the Old Telecom Rate "as a reference point" when determining a just and reasonable attachment rate for a "new agreement" between an incumbent LEC and a utility. The Joint Use Agreement at issue here is not a new agreement. It is "an historical joint use agreement," which the Commission repeatedly distinguished from "new agreements." Moreover, a "reference point" is not a rule. The Commission plainly stated in the Order that it was not adopting "rules governing incumbent LEC pole attachments, finding it more appropriate to proceed on a case-by-case basis."

In re Verizon Fla. LLC v. Fla. Power & Light Co., 30 FCC Rcd 1140, 1149, 2015 FCC LEXIS 441, *29-31, ¶ 22 (F.C.C. February 11, 2015) ("Verizon v. FPL").

The FCC, in a draft order circulated just last week, indicated it is poised to reaffirm this position See In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84, WT Docket No. 17-79, ¶ 118, Third Report and Order and Declaratory Ruling (FCC, July 12, 2018 Draft) ("Draft Third Report and Order").

Like the joint use agreement at issue in Verizon v. FPL, the 1978 JUA is a "historical joint use agreement." FCC precedent is clear that the Commission "is unlikely to find the rates, terms and conditions in existing joint use agreements unjust or unreasonable." 2011 Order, ¶ 216. This creates a strong presumption (strengthened further by the Draft Third Report and Order) in favor of the existing cost-sharing relationship reflected in Appendix B to the JUA, especially with respect to existing infrastructure (to which AT&T gained access under much more favorable terms than its CLEC and CATV competitors).

- **Any Negotiations for a New Cost Sharing Arrangement Must Account for the Historical and Ongoing Benefits Enjoyed by AT&T under the JUA.**

Under the FCC's current rules, the justness and reasonableness of a recurring rate within an existing joint use agreement is inextricably intertwined with the value of the other rates, term and conditions in the joint use agreement—especially as compared to CATV and CLEC licensees. Verizon v. FPL, 30 FCC Rcd at 1149-50.

While it is not Alabama Power's burden to prove the reasonableness of our long-standing, existing agreement, Alabama Power is happy to reiterate some of the most obvious and significant benefits AT&T enjoys under the JUA (many of which were specifically discussed at our June 1 meeting):

- Unlike its competitors, AT&T enjoys a built-to-suit pole network where it pays little if any make-ready costs. The "Standard Joint Use Attachment Pole" under the JUA is a "40-foot, Class 5 treated wood pole." JUA, Article I(L). Without the JUA, Alabama Power would have built a network of poles sufficient only to meet its own service needs. In fact, it would have been imprudent for Alabama Power to invest in taller/stronger infrastructure than necessary for its own service needs without the JUA. Compare Sections 5 and 9 of the enclosed pole license agreements (the "PLAs") regarding the make-ready process for Alabama Power's CATV and CLEC licensees with JUA, Article I(L).

- In those situations where AT&T needs height or strength in excess of the Standard Joint Use Attachment Pole, AT&T pays for modification costs based on Appendix A (scheduled costs) rather than on an actual-cost basis. This significantly reduces and brings predictability to AT&T's "make-ready" costs as compared to Alabama Power's CATV and CLEC licensees. Compare PLAs, Section 5 with JUA, Appendix A.

- AT&T enjoys a "Standard Space Allocation" comprised of "the exclusive use of feet of space on the 40-foot poles." JUA, Article I (M)(2). CATV and CLEC licensees are not reserved any space on the pole and are only allowed to occupy one foot of space (if they are permitted to attach at all). Compare PLAs, Sections A-1 and A-2 with JUA, Article I (M)(2).

- AT&T is allowed to occupy even more than its allocated feet of space per pole, where available, "without additional charge." JUA, Article III(2). We believe there are many, many instances where AT&T is actually exercising this right. We would appreciate AT&T providing any data it has relating to the space actually occupied by AT&T on Alabama Power poles, including but not limited to data on the average height of AT&T's highest attachment on Alabama Power's poles.

- AT&T is allowed to make multiple attachments to a pole without any additional charge or change to its joint use rental rate. By way of contrast, CATV and CLEC licensees are charged on a per attachment—not a per pole—basis. Compare PLAs, Sections 20, 22 with JUA, Article III(2). We would appreciate AT&T providing any data it has on its average number of attachments on our joint use poles.

- AT&T is reserved the lowest section of usable space on the pole, which is easier to access than higher within the communications space, thus reducing installation and maintenance costs. See JUA, Article I (M)(2).

- AT&T's attachments are not subject to Alabama Power's inspections/fees (pre or post-attachment). Compare PLAs, Sections 1(xv), 3(c) and 3(d) and Exhibit B (addressing pre-inspections, post-inspections and associated charges for CLEC and CATV attachers) with JUA, generally.

- Article XII of the JUA, Liability and Damages, contains a more favorable liability sharing provision for AT&T than the indemnification provision in Alabama Power's standard pole

license agreement for CATV and CLEC licensees. Compare PLAs, Section 26 with JUA, Article XII.

- AT&T is not required to obtain insurance or provide Alabama Power with security (such as a bond or letter or credit) as CATV and CLEC licensees are required to do under Alabama Power's CATV and CLEC pole license agreements. Compare PLAs, Sections 27 and 37 with JUA, generally.

Many of the above-referenced joint-use benefits were pivotal in the FCC's Verizon v. FPL decision. See Verizon v. FPL, 30 FCC Rcd at 1148-50. In ruling for FPL, the FCC found convincing evidence that: (1) Verizon was not required to file a permit application, pay an initial fee, or await approval from the utility before attaching; (2) Verizon's avoidance of FPL inspections (pre or post-attachment) and associated inspection fees; (3) Verizon's reserved space at the lowest section of usable space on the pole, which was easier to access than the higher communications space, thereby reducing Verizon's installation and maintenance costs; (4) FPL's installation of taller poles solely to provide Verizon's contractually reserved space; (5) FPL's obligation to replace certain poles to accommodate Verizon, a benefit none of Verizon's competitors received; and (6) Verizon was not required to purchase its own insurance or to indemnify FPL. Id. at 1148-50.

- **AT&T's Joint Use Payments under the JUA Are Fundamentally Different than the Rent Paid by CLECs and CATVs under Pole License Agreements.**

In addition to ignoring applicable precedent, AT&T's efforts to isolate the rate discussion ignore that the joint use payments are different than CATV and CLEC rental payments. CATV and CLEC licensees more or less just rent space on Alabama Power's poles. AT&T's payments under the JUA, on the other hand, are to offset the additional cost of jointly used infrastructure carried by the party owning more than its contractual percentage of joint use poles.

Under the JUA, if AT&T owned of the jointly used poles, it would pay nothing to Alabama Power in annual "rental" payments. By owning fewer poles in the jointly used network over time, however, AT&T has shifted an enormous network cost burden onto Alabama Power. There are approximately 793,000 poles jointly-used by AT&T and Alabama Power. AT&T owns approximately 177,500 of them, which is less than of the network. As a direct result, Alabama Power absorbs approximately million of additional annual pole cost. On the flip side, (while AT&T avoids approximately million in annual pole cost), its "rental" to Alabama Power on those 164,500 poles is less than million. As such, AT&T is saving roughly million a year by not owning its objective percentage of the joint use network. The notion that AT&T should save millions more in the face of what it is already saving, while Alabama Power incurs even greater cost, is backwards.

Discussions Regarding Revised Cost Sharing Arrangement in JUA

For the reasons explained above, AT&T is not entitled to "the telecom rate" with respect to existing infrastructure, and, contrary to AT&T's apparent understanding as expressed in the parties' June 1 meeting, none of Alabama Power's other joint use partners pay Alabama Power "the telecom rate" (or anything remotely close thereto). Alabama Power is, nonetheless, willing to engage in data-driven discussions concerning a revised cost sharing arrangement for existing infrastructure under the JUA. Alabama Power is currently working on its own financial analysis of the JUA, as well as studying other relevant benchmarks. In the meantime, Alabama Power requests that AT&T provide Alabama Power with the following information relevant to that analysis: (1) AT&T's analysis regarding the value of the JUA; (2) a sampling of executed pole

license agreements between AT&T and its current attachers; and (3) AT&T's current rate for its pole licensees (and the supporting data and calculations).

Reciprocal Pole License Agreement for New Poles

In addition to the above, Alabama Power is willing to enter into a reciprocal pole license agreement with AT&T with respect to new infrastructure. Under that agreement, the parties would access each other's poles under terms and conditions similar to those contained in the template CATV/CLEC license agreement enclosed with Alabama Power's June 15, 2018 letter to AT&T and the redacted, executed agreements enclosed with this letter. Under such an agreement, AT&T would be assigned one foot of space and would pay annual pole rental consistent with the Alabama Power CLEC telecom rate (on a per attachment and/or space occupied basis). AT&T would also be obligated to pay those same categories of costs that Alabama Power's CLEC and CATV attachers pay, including but not limited to pre-inspection, post-inspection, and make-ready costs. The operational terms and conditions of access for AT&T would also be substantially similar to those pursuant to which CATV and CLEC licensees attach to Alabama Power's poles.

***

Upon receipt of AT&T's valuation of the JUA, sample pole license agreements, and rate data requested above, Alabama Power intends to provide AT&T with a proposed revised cost sharing methodology for existing infrastructure under the JUA. In the meantime, please let us know if AT&T is interested in the proposed reciprocal pole license agreement for new infrastructure. Alabama Power is also willing to consider other creative alternatives for our going-forward relationship, such as a pole purchase by one party or the other. If AT&T believes a meeting would be helpful to discuss these issues, please let me know and I will coordinate with you to get one scheduled.

Sincerely,

Sherri Morgan
Joint Use Team Leader

cc: Russ Campbell, Allen Estes, Balch & Bingham LLP (via electronic mail)
Eric Langley, Robin Bromberg, Langley & Bromberg LLC (via electronic mail)
Mr. Wayne Hutchens – President, AT&T Alabama

EXHIBIT 15

PUBLIC VERSION

AT&T

Kyle F. Hitchcock
Associate Director
National Joint Utility Team

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August 16, 2018

Via US Mail and Email STMorgan@Southernco.com
Sherri Morgan
Joint Use Team Leader
Alabama Power Company
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Birmingham, AL 35203

Re: AT&T and Alabama Power

Dear Ms. Morgan:

Thank you for your July 19 letter. We are pleased that Alabama Power is working to provide us an offer for a new rate but are surprised that we have not yet received it. We continue to think that Alabama Power is needlessly complicating its effort by looking beyond the FCC's new and pre-existing telecom rate formulas. The FCC said in the 2011 Pole Attachment Order that it expected companies to look to the new telecom and pre-existing telecom rates when negotiating a "just and reasonable" rate for an ILEC. Earlier this month, the FCC went a step further and adopted a presumption that the "just and reasonable" rate is the new telecom rate unless Alabama Power can prove by clear and convincing evidence that AT&T receives competitive benefits under the joint use agreement that provide it a net material advantage over its competitors. Even if Alabama Power could meet that high standard, the highest rate it could charge would be the pre-existing telecom rate, which the FCC set as a "hard cap" where an ILEC has a net material advantage over its competitors.

The FCC's recent Order reinforces our view that AT&T has long been entitled to the new telecom rate because it does not enjoy any material advantages over its competitors (much less a net material advantage) and Alabama Power will not be able to prove otherwise. Our conclusion is confirmed by the list of alleged "benefits" in your letter, as each was either imposed on AT&T for the benefit of Alabama Power, has no value or imposes additional costs on AT&T, or is reciprocal to Alabama Power.

For example, AT&T's position as the lowest on the pole has resulted in damages not suffered by its competitors: when attachers improperly engineer or construct their facilities, and it results in a pole leaning, it is AT&T's facilities that become low-hanging without notice and vulnerable to being struck by large vehicles. Also because of their location on the pole—which is the result of the origin of joint use, and not some special benefit—AT&T's attachments are more susceptible to damage by workers ascending the pole to work on facilities above them. Similarly, the fact that AT&T performs its own pre-attachment and post-attachment inspections, rather than paying Alabama Power to perform that work, does not cut costs for AT&T or impose them on Alabama Power. Alabama Power, as a result, cannot "charge a higher rate" because AT&T "performs a particular service itself." *See* Dominion Order ¶ 18 & n.67. Nor can Alabama Power justify the

high rates it charges AT&T by "identifying as alleged 'benefits' to [the ILEC] services that [the ILEC] is likewise required to extend to [the power company] under the Joint Use Agreements." *Id.* ¶ 21. These "reciprocal benefits" impose costs on AT&T that are not incurred by its competitors. AT&T also incurs substantial costs to build and maintain joint use poles, which AT&T's competitors are not obligated to pay—something entirely missing from the list of alleged "benefits" provided in your letter.

There are other reasons why we think that your list of alleged "benefits" does not justify a rate higher than the new telecom rate, but it would be premature to provide a full analysis since Alabama Power has not yet quantified the value of these alleged "benefits" or produced all of its license agreements. We appreciate your willingness to share two recently-executed agreements, but we requested all of Alabama Power's license agreements, which are needed for a proper evaluation of whether AT&T "has been advantaged relative to a typical competitor or an average of its competitors." Dominion Order ¶ 20. We cannot perform that analysis with only two license agreements.

For purposes of these discussions, we will not quarrel with Alabama Power's decision to redact the name of particular licensees from the agreements. But we do not understand why the cable and new telecom rates are also redacted from the agreements. We also find it curious that Alabama Power has refused to provide its cable and new telecom rates, and its cable and new telecom rate calculations, when it has asked AT&T to provide its "current rate for its pole licensees (and the supporting data and calculations)." AT&T's rates would only be relevant if it were to seek more favorable rates than it charges its attachers, and it will not. *See* Pole Attachment Order ¶ 219. Alabama Power has also asked for AT&T's license agreements, but they are not relevant to the question of what rate is "just and reasonable" to attach to Alabama Power's poles. Alabama Power's license agreements, and its rates and rate calculations, on the other hand, are central to the analysis, and must be provided. *See* 47 C.F.R. §§ 1.1404(g)(2), 1.1424.

We disagree with other aspects of your letter. For example, the FCC confirmed this month that it does intend to reduce rates under "privately-negotiated agreements," and rejected Southern Company's argument that the new telecom rate presumption "should not apply . . . to existing agreements." *See* Third Report and Order ¶ 127 & n.479. Indeed, the FCC's previously "expressed reluctance to disturb terms or conditions in joint use agreements that were entered into prior to the adoption of the [2011] Pole Attachment Order" never extended to *all* existing agreements, but only to those entered "between parties with relatively equal bargaining power." *See* Dominion Order ¶ 10. Here, AT&T has always operated at a significant negotiating disadvantage and suffered from Alabama Power's use of its superior bargaining power. While Alabama Power now claims that the parties' per-pole rental obligations would cancel each other out if AT&T owned [redacted] percent of the jointly used poles, AT&T has never owned close to [redacted] percent of the jointly used poles and has never been required to own that percentage of poles. It is precisely these facts that allowed Alabama Power to impose unjust and unreasonable rental rates on AT&T at the outset and maintain them over the past four decades.

We would like to quickly conclude these negotiations. We appreciate Alabama Power's willingness to consider "creative alternatives" to the current rate provision but think that a reciprocal license agreement that applies only to <u>new</u> poles would be administratively unwieldy

and inconsistent with federal law. We instead urge Alabama Power to provide without further delay the offer that we have sought since March 7th and that Alabama Power promised to provide us at our June 1 executive-level meeting. In the meantime, and in light of these ongoing negotiations, Alabama Power should withdraw its recent invoice of [redacted] claimed late fees, particularly since any delay in this year's rental payment is the direct result of Alabama Power's excessively high invoice and apparent unwillingness, in spite of its assurances otherwise, to make even an initial offer.

Sincerely,

S/Kyle Hitchcock

Kyle Hitchcock
Associate Director, National Joint Utility Team
AT&T Technology Operations, National C&E

EXHIBIT 16

Alabama Power

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September 11, 2018

Via E-mail

Kyle Hitchcock
Associate Director
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AT&T Technology Operations
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kh1392@att.com

RE: June 1, 1978 Joint Use Agreement between Alabama Power Company and AT&T

Kyle,

Thank you for your August 16, 2018 letter.

We are continuing to work on a proposed revised cost-sharing methodology, but as noted in my July 19 letter, it is necessary to first have AT&T's response to our data request. In particular, we requested exemplar executed pole license agreements between AT&T and its current attachers and the rental rate AT&T charges its pole licensees. The exemplar pole license agreements not only allow us to ascertain whether and to what extent the terms in those agreements differ from our historical joint use agreement, but they also help Alabama Power to understand what AT&T might expect in a going-forward reciprocal pole license agreement. The rate information allows us to verify our own calculation of AT&T's annual pole cost, as calculated under the FCC's formula, which, we believe, is relevant to our continued discussions about an adjusted cost-sharing methodology. After all, Alabama Power is attached to roughly 177,000 AT&T poles, so the amount Alabama Power pays to AT&T is an essential part of the analysis. Perhaps more importantly, at this stage, it seems counterproductive for either party to unilaterally determine what is, or is not, relevant. We certainly did not do that. We again urge AT&T to respond to our reasonable requests (regardless of whether AT&T believes they are relevant or not).

Additionally, we would like some clarification on an important issue in our discussions: whether AT&T sees any going-forward value in the terms and condition of the joint use agreement. In our initial meeting, you indicated AT&T had no desire to renegotiate any provisions of the joint use agreement other than the adjustment rate. You reiterated that position in your June 26, 2018 letter, but your August 16, 2018 letter seems to indicate that AT&T no longer sees value in a number of